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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,643

01/24/2006

Akira Hommi

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23838 7590 11/12/2009

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EXAMINER

KING, BRADLEY T

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

11/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,643	Applicant(s) HOMMI, AKIRA	
	Examiner Bradley T. King	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :1/24/2006, 6/06/2006, 4/22/2008.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species I in the reply filed on 7/23/2009 is acknowledged. The traversal is on the ground(s) that the requirement did not describe the technical features of each embodiment and why each differs from each other. This is not found persuasive because the unique features of the different species are readily apparent as they differ in the type of power plant used.

The requirement is still deemed proper and is therefore made FINAL.

Claims 11-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected embodiment, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/23/2009. Note claims 11-12 require a internal combustion engine which is not found in the elected embodiment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19837373 in view of Cikanek (US# 5450324).

DE 19837373 discloses a vehicle including; a mechanical braking device that is capable of applying a mechanical braking force to said vehicle; a slip detection module that detects a slip caused by spin of the drive wheels; a slip-down detection module that detects a slip-down of said vehicle; a controller actuating and controlling said mechanical braking device to apply a mechanical braking force to said vehicle in response to detection of a slip-down of said vehicle by said slip- down detection module. DE 19837373 lacks the explicit disclosure of regulating the power output, instead broadly disclosing traction control (BASR). Cikanek discloses a similar device and further teaches a power output device whose torque is regulated during traction control. Col. 7, lines 12-15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the details of the traction control, as taught by Cikanek, in the method and device of DE 19837373, as an obvious means of carrying out traction control and propulsion, thereby ensuring vehicle startup.

Regarding claim 4, DE 198 37 373 further lacks the explicit disclosure of a predetermined speed. The examiner takes official notice that controlling roll-back to a predetermined vehicle speed is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a predetermined speed in the device of DE 198 37 373 and Cikanek to limit roll-back to a controllable amount.

Regarding claim 5, DE 198 37 373 further lacks the explicit disclosure of considering road surface gradient. the Examiner takes official notice that it is well known in the art to consider road gradient in roll back control. It would have been

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obvious to one of ordinary skill in the art at the time the invention was made to utilize gradient when determining the braking of DE 198 37 373 and Cikanek, as known in the art, to prevent rollback in a quick and secure manner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shafer et al (US# 5696683).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bradley T King/
Primary Examiner, Art Unit 3657

BTK